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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

DAVID D. DARCY, M.D.,

RESPONDENT.

FINAL DECISION AND ORDER

LS9905196MED

98 MED 316

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

David D. Darcy, M.D.
P.O. Box 18
Marinette, WI 54143
Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. David D. Darcy (D.O.B. 11/22/42) is duly licensed and registered in the state of Wisconsin to practice medicine and surgery (license # 19002). This license was first granted on July 23, 1974. Dr. Darcy engages in general practice and emergency medicine.
2. Respondent's latest address on file with the Department of Regulation and Licensing is P.O. Box 18, Marinette, WI 54143.
3. On 9/11/95, Respondent was on duty as an emergency department physician at Bay Area Medical Center. RG, an obese 50 year old male inmate of the Marinette County Jail, was brought to the emergency room after a brief loss of consciousness. RG would not respond to verbal inquiry from the physician or staff concerning his condition. Upon examination of the patient the Respondent noted a temperature of 99, blood pressure supine of 100, white blood cell count of 12.4, decreased potassium level, and an abnormal chest x-ray with evidence of pleural effusion on the left side. The patient was admitted and referred to Dr. Mertens for treatment. RG was released from the hospital and returned to the jail on 9/15/95.
4. On 9/29/95 RG was seen at the Bay Area Medical Center emergency room by Dr. Scott Conant following concern over RG's refusal to eat and resultant weight loss. RG was assessed as generally alert, but pale, weak and moaning. Lab results included an elevated white blood cell count at 15.3. RG was returned to the jail with a diagnosis of situational depression. No medical treatment was rendered.
5. On 10/01/95, RG was found lying on his jail cell floor naked and did not respond to verbal inquiry. A representative of the county Human Services Department recommended an emergency detention transfer to the Winnebago Mental Health Center. RG was transported to the Bay Area Medical Center emergency room for a

medical clearance for transfer. RG was seen in the emergency room by Respondent who noted a temperature of 101. Laboratory reports indicated: white blood cell count of 14.3, decreased potassium level, elevated urea nitrogen, elevated creatinine, elevated carbon dioxide, elevated uric acid, low phosphorous, low albumin, high globulin, high bilirubin direct and high LDH. Respondent approved a medical clearance for the transfer of RG to Winnebago Mental Health Center. No diagnosis of RG's condition was made by Respondent and no medical treatment was rendered.

6. On 10/02/95 RG collapsed and died at the Winnebago Mental Health Center. An autopsy revealed extensive purulent basilar meningitis. Cause of death was determined to be bacterial meningitis.

7. On 11/03/98, a jury verdict was rendered in Marinette County Circuit Court case 96 CV 277 against Respondent and in favor of the estate of RG. The verdict determined that Respondent was negligent in his evaluation and treatment of RG, and that such negligence was a cause of the death of RG. Judgment was entered in the case in accordance with the verdict.

8. Respondent has been the subject of a previous disciplinary action by the Medical Examining Board in case 98 MED 138, involving chemical dependence.

CONCLUSIONS OF LAW

9. The Wisconsin Medical Examining Board has jurisdiction in this case pursuant to sec. 448.02 Wis. Stats.

10. The Wisconsin Medical Examining Board has the authority to resolve this case by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5) Wis. Stats.

11. Dr. Darcy's conduct in failing to make a timely diagnosis of the condition of patient RG and provision for prompt treatment was in violation of sec. 448.02(3) Wis. Stats. and Wis. Adm. Code sec. MED 10.02(2)(h). The findings and judgment entered in Marinette County Circuit Court case 96 CV 277 constitute conclusive evidence of negligence in treatment by Dr. Darcy pursuant to sec. 448.02(3)(b).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The Stipulation of the parties is approved.

2. David D. Darcy, M.D. (license 19002) is REPRIMANDED.

3. The license of Respondent to practice as a physician and surgeon in the state of Wisconsin is LIMITED as follows:

a. Respondent shall certify to the Board the successful completion of an approved course of Category I continuing medical education to consist of an emergency medicine review course of not less than 40 hours, within one year of the date of this order. Respondent will be responsible for locating a course of training acceptable to the Medical Examining Board and for obtaining the required course preapproval from the Medical Examining Board or its designee. Respondent shall be responsible for all costs of the completion of the required training. Within 60 days of completion of the required training Respondent shall submit an affidavit to the Wisconsin Medical Examining Board affirming that he has completed the educational requirement of this Order. The affidavit shall be supported by a certificate of attendance and completion issued by the course sponsor. The affidavit and supporting documentation will be filed with the Department Monitor, Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.

b. Upon completion of the training required by this Order, Respondent will appear before the Medical Examining Board, if so requested by the Board, to assure compliance with the terms of this Final Decision and Order.

4. Respondent shall, within 60 days of the date of this Order pay the costs of investigation and prosecution of this action in the sum of \$ 400.00.

5. Pursuant to sec. 448.02(4) Wis. Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Respondent has violated the terms of this Final Decision and Order, the Board may order that the license of Respondent to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

6. The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin this 19th day of May, 1999.

WISCONSIN MEDICAL EXAMINING BOARD

Ronald Grossman, M.D.

Board Secretary

